

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

CALVIN E. BENFORD,

Plaintiff,

v.

CHICAGO BEVERAGE SYSTEMS L.L.C.,

Defendant.

No. 07 CV 06958

Judge Coar

Magistrate Judge Valdez

DEFENDANT'S MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT

Defendant Chicago Beverage Systems L.L.C. ("CBS"), by its attorneys, respectfully moves to dismiss Plaintiff's Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(5). As more fully set forth in the Memorandum of Points and Authorities filed contemporaneously herewith, Plaintiff's Amended Complaint was not properly served on CBS and should be dismissed in its entirety.

Alternatively, CBS respectfully moves to dismiss Count IV of Plaintiff's Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6). As more fully set forth in the Memorandum of Points and Authorities filed contemporaneously herewith, Count IV fails to state a claim on which relief can be granted and should be dismissed.

WHEREFORE, Defendant Chicago Beverage Systems L.L.C. respectfully requests this Court to dismiss Plaintiff's Amended Complaint or, alternatively, Count IV of Plaintiff's Amended Complaint and for such other and further relief as the Court deems just and proper in the circumstances.

Respectfully submitted,

Chicago Beverage Systems LLC

By: s/ Timothy J. Tommaso
Attorney for Defendant

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Dated: July 3, 2008

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 3rd day of July, 2008, a copy of the foregoing *Defendant's Motion To Dismiss Plaintiff's Amended Complaint* was electronically filed and served through CM/ECF case filing to:

John Z. Lee
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s/ Timothy J. Tommaso
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